

**Public Chapter 413**

**SENATE BILL NO. 1241**

**By Herron, Haynes, Williams, Henry**

Substituted for: House Bill No. 371

By Williams, Armstrong, Bone, Sargent, Fitzhugh, Maddox, McMillan, Jackson, McDonald

AN ACT To amend Tennessee Code Annotated, Title 68, Chapter 30, relative to anatomical gifts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-30-105, is amended by adding the following new subsection:

(g) A gift of all or part of the body that is not revoked by the donor before death is irrevocable and does not require the consent or concurrence of any person after the donor's death. Notwithstanding any provision of law to the contrary, the intent of a decedent to make a gift of his or her body or to be an organ and/or tissue donor as evidenced by the possession of a validly executed donor card, donor driver's license, living will, durable power of attorney or other document of gift shall not be revoked by any member of any of the classes specified in Section 103 of this part.

SECTION 2. Tennessee Code Annotated, Section 68-30-106, is amended by adding the following new subsection in Section 2 and by redesignating the existing subsection as subsection (a):

(b) Law enforcement personnel responding to the scene of an accident or trauma shall take reasonable steps so that the driver's license or personal identification card, donor card or other document of gift and medical alert bracelet, if any, of the individual involved in the accident or trauma accompanies the individual to the hospital. If required for an investigation, the hospital shall, within five (5) days, if practicable, return the driver's license or identification card to the appropriate law enforcement agency if the individual involved in the accident is deceased.

SECTION 3. Tennessee Code Annotated, Title 68, Chapter 30, Part 1, is amended by adding the following as a new section to be appropriately designated:

Section 68-30-1\_\_\_\_. Consistent with the provisions of Tennessee Code Annotated, Section 63-6-219, every hospital shall work jointly with the appropriate organ procurement agency to conduct death record reviews on at least an annual basis. The result of the death record reviews conducted shall be reported by each organ procurement agency to the Tennessee Hospital

Association by May 1 of each year for the preceding year and more frequently if practicable. Such information shall be submitted by the Tennessee Hospital Association to the Commissioner of Health in a compiled, blind report, by type of hospital and grand division of the state by September 1 of each year.

SECTION 4. Tennessee Code Annotated, Section 68-30-110, is amended by deleting the section in its entirety and by substituting instead the following:

Section 68-30-110. (a) Within one (1) year from the effective date of this act, each hospital shall develop, with the concurrence of the hospital medical staff, a protocol for identifying potential tissue and organ donors. Such protocol shall require, at or near the time of death of any patient or upon the identification of a terminally-ill patient, that each hospital contact by telephone (or other timely and effective means of communication) the appropriate organ procurement agency which, after consultation with the attending physician or designee, shall determine the suitability of the patient for tissue or organ donation. The decision shall be noted by the hospital on the patient's record. If the patient is a suitable candidate for donation, the hospital and the organ procurement agency shall initiate the process of requesting a donation in those instances:

(1) In which the patient has not previously given consent pursuant to this part; or

(2) In which the patient has not refused to give consent; or

(3) In which the patient has not revoked consent previously given. The person making the request for donation, after consultation with the attending physician or designee, shall be an organ procurement agency representative, or a member of the hospital staff trained or designated by the organ procurement agency as a qualified requestor, or, in the case of eye-only donation, an organ procurement representative or a member of the eye bank or hospital staff trained or designated by the organ procurement agency as a qualified requestor. The protocol shall encourage discretion and sensitivity to family circumstances in all discussions regarding organ donation, shall discourage multiple requests for consent, and shall provide for the appointment of a member of the hospital staff to act as liaison between the hospital and the organ procurement agency.

SECTION 5. Nothing contained in this act or in this chapter shall be construed to supersede or revoke, by implication or otherwise, any valid gift of the entire body to a medical school.

SECTION 6. Every local education agency is encouraged to promote educational opportunities to inform students about organ and tissue donation and transplantation. These opportunities should include curricula content as appropriate to provide:

(a) Information about the need for organ and tissue donation and the benefits of donation to recipients, and

(b) Information about Tennessee law relative to organ and tissue donation, including how to become a donor.

SECTION 7. The title of this act is and may be cited as "The William J. Warner/Green Hills Rotary Club Organ Procurement Act of 1997".

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.